

CLOSED, MAG

**U.S. District Court
Northern District of West Virginia (Clarksburg)
CIVIL DOCKET FOR CASE #: 1:10-cv-00175-IMK -JSK**

Alvarez v. United States Department Of Treasury et al
Assigned to: District Judge Irene M. Keeley
Referred to: Magistrate Judge John S. Kaul
Cause: 28:1361 Petition for Writ of Mandamus

Date Filed: 10/14/2010
Date Terminated: 08/24/2012
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**Nelson Rivas Alvarez**

represented by **Nelson Rivas Alvarez**
03254-089
HAZELTON
U.S. PENITENTIARY
Inmate Mail/Parcels
P.O. BOX 2000
BRUCETON MILLS, WV 26525
PRO SE

V.

Defendant**United States Department Of Treasury**

represented by **Helen Campbell Altmeyer**
U.S. Attorney's Office – Whg
PO Box 591
Wheeling, WV 26003
(304) 234-0100
Fax: 304-234-0112
Email: helen.altmeyer@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Internal Revenue Service**

represented by **Helen Campbell Altmeyer**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/14/2010	<u>1</u>	COMPLAINT against Internal Revenue Service, United States Department Of Treasury, filed by Nelson Rivas Alvarez. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit B 1, # <u>4</u> Exhibit C, # <u>5</u> Exhibit C 1, # <u>6</u> Exhibit C 2, # <u>7</u> Exhibit D, # <u>8</u> Exhibit E, # <u>9</u> Exhibit E 1, # <u>10</u> Exhibit F, # <u>11</u> Exhibit G, # <u>12</u> Exhibit H, # <u>13</u> Exhibit I, # <u>14</u> Exhibit I 1, # <u>15</u> Exhibit I 2, # <u>16</u> Exhibit J, # <u>17</u> Exhibit K, # <u>18</u> Exhibit L, # <u>19</u> Exhibit, # <u>20</u> Exhibit, # <u>21</u> Envelope)(jmm) (Additional attachment(s) added on 10/14/2010: # <u>22</u> Personal Recognizance Bond) (jmm). (Entered: 10/14/2010)
10/14/2010	<u>2</u>	NOTICE OF GENERAL GUIDELINES FOR APPEARING PRO SE IN FEDERAL COURT sent to Nelson Rivas Alvarez via certified mail. (jmm) (Additional attachment(s) added on 10/14/2010: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 10/14/2010)
10/14/2010	<u>3</u>	NOTICE OF DEFICIENT PLEADING (forms included)sent to pro se plaintiff via certified mail. (jmm) (Additional attachment(s) added on 10/14/2010: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 10/14/2010)

10/19/2010	<u>4</u>	RETURN RECEIPT as to <u>2</u> NOTICE OF GENERAL GUIDELINES FOR APPEARING PRO SE IN FEDERAL COURT, <u>3</u> Notice OF DEFICIENT PLEADING. SERVICE ACCEPTED on 10/18/2010. (jmm) (Entered: 10/19/2010)
10/21/2010	<u>5</u>	LETTER from Nelson Rivas Alvarez to Clerk Of Court. # <u>1</u> Attachment, # <u>2</u> Envelope)(jmm) (Entered: 10/21/2010)
10/25/2010	<u>6</u>	LETTER from Clerk's Office to Nelson Rivas Alvarez regarding <u>5</u> Letter. (Copy pro se plaintiff via certified mail) (jmm) (Additional attachment(s) added on 10/25/2010: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 10/25/2010)
10/28/2010	<u>7</u>	RETURN RECEIPT as to <u>6</u> Letter. SERVICE ACCEPTED on 10/27/2010. (jmm) (Entered: 10/28/2010)
12/22/2010	<u>8</u>	Filing fee: \$ 350, receipt number 056094. (mh) (Entered: 12/22/2010)
02/10/2011	<u>9</u>	ORDER REFERRING CASE to Magistrate Judge John S. Kaull. Signed by District Judge Irene M. Keeley on 2/10/2011. (Copy JSK via CM/ECF, pro se plaintiff via certified mail)(jmm) (Additional attachment(s) added on 2/10/2011: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 02/10/2011)
02/15/2011	<u>10</u>	RETURN RECEIPT as to <u>9</u> Order Referring Case to Magistrate Judge. SERVICE ACCEPTED on 2/14/2011. (jmm) (Entered: 02/15/2011)
02/15/2011	<u>11</u>	LETTER from Nelson Rivos – Alvarez to Clerk. (Attachments: # <u>1</u> Envelope)(jmm) (Entered: 02/15/2011)
08/30/2011	<u>12</u>	LETTER from Nelson Rivas Alvarez to Clerk requesting the status of his case. (Copy of current docket sheet via us mail) (Attachments: # <u>1</u> Envelope)(jmm) (Entered: 08/30/2011)
09/01/2011	<u>13</u>	ORDER REGARDING SERVICE OF PROCESS. Clerk is directed to issue 60 day summonses for the named defendants and the United States Attorney for the Northern District of West Virginia and the Attorney General of the United States and forward those forms to the plaintiff. (Copy of this order and summons to Pro Se plaintiff via certified mail) (jmm) (Additional attachment(s) added on 9/1/2011: # <u>1</u> Certified Mail Return Receipt) (jmm). (Attachment 1 replaced on 9/2/2011 corrected receipt) (jmm). (Entered: 09/01/2011)
09/07/2011	<u>14</u>	RETURN RECEIPT as to <u>13</u> Order REGARDING SERVICE OF PROCESS. SERVICE ACCEPTED on 9/6/2011. (jmm) (Entered: 09/07/2011)
09/14/2011	<u>16</u>	SUMMONS Returned Executed by Plaintiff for United States Department Of Treasury. (Attachments: # <u>1</u> Summons–IRS, # <u>2</u> Summons–USAG, # <u>3</u> Summons–USA–NDWV, and # <u>4</u> Envelope.)(jcs) (Entered: 09/14/2011)
10/24/2011	<u>17</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint,, by Internal Revenue Service, United States Department Of Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Altmeyer, Helen) (Entered: 10/24/2011)
10/25/2011	<u>18</u>	ORDER EXTENDING TIME TO ANSWER; GRANTS as to <u>17</u> Motion for Extension of Time to Answer re <u>1</u> Complaint, filed by United States Department Of Treasury, Internal Revenue Service. Defendants Answer/Responses due by 12/13/2011. Signed by Magistrate Judge John S. Kaull on 10/25/2011. (Copy counsel of record via CM/ECF, pro se plaintiff via certified mail)(jmm) (Additional attachment(s) added on 10/25/2011: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 10/25/2011)
11/01/2011	<u>19</u>	RETURN RECEIPT as to <u>18</u> Order on Motion for Extension of Time to Answer. SERVICE ACCEPTED on 10/28/2011. (jmm) (Entered: 11/01/2011)
12/09/2011	<u>20</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint,, by Internal Revenue Service, United States Department Of Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Altmeyer, Helen) (Entered: 12/09/2011)
01/13/2012	<u>21</u>	MOTION for Leave to File <i>Out of Time</i> by Internal Revenue Service, United States Department Of Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Altmeyer, Helen) (Entered: 01/13/2012)

01/13/2012	<u>22</u>	ORDER EXTENDING TIME TO ANSWER; GRANTS as to <u>20</u> Motion for Extension of Time to Answer Nelson Rivas Alvarez answer due 1/12/2012. Signed by Magistrate Judge John S. Kaull on 1/13/2012. (Copy counsel of record via CM/ECF, pro se plaintiff via certified mail) (jmm) (Additional attachment(s) added on 1/13/2012: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 01/13/2012)
01/13/2012	<u>23</u>	ORDER; GRANTS as to <u>21</u> Motion for Leave to File Out of Time by Internal Revenue Service, United States Department Of Treasury. Signed by Magistrate Judge John S. Kaull on 1/13/2012. (Copy counsel of record via CM/ECF, pro se plaintiff via certified mail)(jmm) (Additional attachment(s) added on 1/13/2012: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 01/13/2012)
01/13/2012	<u>24</u>	MOTION to Dismiss <i>or</i> , MOTION for Summary Judgment by Internal Revenue Service, United States Department Of Treasury. (Attachments: # <u>1</u> Text of Proposed Order)(Altmeyer, Helen) (Entered: 01/13/2012)
01/13/2012	<u>25</u>	MEMORANDUM <i>in Support of Defendant's</i> by Internal Revenue Service, United States Department Of Treasury re <u>24</u> MOTION to Dismiss <i>or</i> MOTION for Summary Judgment. (Attachments: # <u>1</u> Attachment Declaration of Emily M. Lesniak & Exhs. A-C, # <u>2</u> Attachment Declaration of Anne Jensen, # <u>3</u> Attachment Declaration of Donna DeWeese, # <u>4</u> Attachment Declaration of Thomas M. Batch, # <u>5</u> Attachment Declaration of Jeanne M. Willis, # <u>6</u> Attachment Declaration of Jesus Murillo & Exhs. A-B, # <u>7</u> Attachment Declaration of Marcia Browning)(Altmeyer, Helen) (Entered: 01/13/2012)
01/18/2012	<u>26</u>	ROSEBORO NOTICE: re <u>24</u> MOTION to Dismiss <i>or</i> MOTION for Summary Judgment filed by United States Department Of Treasury, Internal Revenue Service. Within 30 days from the date of this Order, the pro se party shall file any opposition to said motion. Signed by Magistrate Judge John S. Kaull on 1/18/12. (Copy PS Plaintiff via cert. mail)(mh) (Additional attachment(s) added on 1/18/2012: # <u>1</u> Certified Mail Return Receipt) (mh). (Entered: 01/18/2012)
01/18/2012	<u>27</u>	RETURN RECEIPT as to <u>22</u> Order on Motion for Extension of Time to Answer, <u>23</u> Order on Motion for Leave to File. SERVICE ACCEPTED on 1/17/2012. (kd) (Entered: 01/18/2012)
01/23/2012	<u>28</u>	RETURN RECEIPT as to <u>26</u> Roseboro Notice,. SERVICE ACCEPTED – Date of Delivery is Blank. (jss) (Entered: 01/23/2012)
02/06/2012	<u>29</u>	Request for Interrogatories/MOTION to Compel Answers to Interrogatories by Nelson Rivas Alvarez. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Envelope)(jss) (Entered: 02/06/2012)
02/28/2012	<u>30</u>	RESPONSE by Internal Revenue Service, United States Department Of Treasury to <u>29</u> MOTION to Compel. (Attachments: # <u>1</u> Exhibit 1–Manuel Gray v. Southwest Airlines, Inc. (Westlaw), # <u>2</u> Exhibit 2– North Carolina Network for Animals, Inc., v. U.S. Department of Agriculture (Westlaw))(Altmeyer, Helen) (Entered: 02/28/2012)
03/20/2012	<u>31</u>	ORDER denying <u>29</u> Discovery Request. The Court shall extend Plaintiffs time to file his Response for thirty (30) days from his receipt of this Order. Signed by Magistrate Judge John S. Kaull on 3/20/12. (Attachments: # <u>1</u> Certified Mail Return Receipt)(jss) (Entered: 03/20/2012)
03/23/2012	<u>32</u>	RETURN RECEIPT as to <u>31</u> Order. SERVICE ACCEPTED on 3/22/12. (jss) (Entered: 03/23/2012)
04/19/2012	<u>33</u>	RESPONSE in Opposition to <u>24</u> MOTION to Dismiss <i>or</i> MOTION for Summary Judgment filed by Nelson Rivas Alvarez. (attachments sealed per chambers) (Attachments: # <u>1</u> Attachments, # <u>2</u> Envelope)(jss) (Entered: 04/19/2012)
04/26/2012	<u>34</u>	REPORT AND RECOMMENDATION/OPINION REGARDING DEFENDANTS MOTION TO DISMISS OR FOR SUMMARY JUDGMENT. Magistrate Judge recommends that re <u>24</u> MOTION to Dismiss <i>or</i> MOTION for Summary Judgment filed by United States Department Of Treasury, Internal Revenue Service be GRANTED and that this matter be DISMISSED and stricken from the Courts docket. Within fourteen (14)calendar days after being served with a copy of this R & R, file with the Clerk of the Court written objections identifying the portions of

		the R &R to which objection is made, and the basis for such objection. Signed by Magistrate Judge John S. Kaull on 4/26/2012. (Copy counsel of record via CM/ECF, Pro se plaintiff via certified mail)(jmm) (Additional attachment(s) added on 4/26/2012: # <u>1</u> Certified Mail Return Receipt) (jmm). (Entered: 04/26/2012)
05/01/2012	<u>35</u>	RETURN RECEIPT as to <u>34</u> REPORT AND RECOMMENDATIONS. SERVICE ACCEPTED on 4/30/12. (jss) (Entered: 05/01/2012)
05/09/2012	<u>36</u>	MOTION for Extension of Time to File Objection to <u>34</u> REPORT AND RECOMMENDATIONS by Nelson Rivas Alvarez. (Attachments: # <u>1</u> Envelope)(jss) Modified on 5/11/2012 corrected type of attachment (jss). (Entered: 05/09/2012)
05/11/2012	<u>37</u>	ORDER granting <u>36</u> Motion for Extension of Time. Alvarez shall file any objections to magistrate judge's <u>34</u> Report and Recommendations on or before 6/11/2012. Signed by District Judge Irene M. Keeley on 5/11/12. (Attachments: # <u>1</u> Certified Mail Return Receipt)(jss) (Entered: 05/11/2012)
05/16/2012	<u>38</u>	RETURN RECEIPT as to <u>37</u> Order on Motion for Extension of Time to File Response/Reply. SERVICE ACCEPTED on 5/15/12. (cnd) (Entered: 05/16/2012)
06/22/2012	<u>39</u>	OBJECTION to <u>34</u> Report and Recommendations. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C (sealed), # <u>4</u> Exhibit D (sealed), # <u>5</u> Exhibit E (sealed), # <u>6</u> Exhibit F, # <u>7</u> Exhibit G (sealed), # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J (sealed), # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Cover Letter, # <u>14</u> Envelope)(jss) Modified on 6/22/2012 – some exhibits sealed per chambers (jss). (Entered: 06/22/2012)
07/02/2012	<u>40</u>	LETTER from Plaintiff to Clerk, requesting certified copy of the docket sheet. (Attachments: # <u>1</u> Envelope)(mailed docket sheet to Plaintiff)(cnd) (Entered: 07/02/2012)
07/19/2012	<u>41</u>	LETTER OF INSTRUCTION TO THE CLERK from Plaintiff to Clerk. (Attachments: # <u>1</u> Letter from Computershare, # <u>2</u> Letter from CMS Energy, # <u>3</u> Settlement Statement, # <u>4</u> Envelope)(copy docket sheet to Plaintiff, as requested)(cnd) (Entered: 07/20/2012)
08/07/2012	<u>42</u>	LETTER OF INSTRUCTION to Clerk from Nelson Rivas. (Attachments: # <u>1</u> Letter dated 7/16/12 to Nelson Rivas from Computershare, # <u>2</u> Envelope) (copy returned and mailed copy of docket sheet)(jss) (Entered: 08/07/2012)
08/24/2012	<u>43</u>	ORDER adopting <u>34</u> Report and Recommendations. For the reasons more fully stated in the Rthe Court: GRANTS the defendants motion to dismiss or for summary judgment <u>24</u> and ORDERS that this case be DISMISSED and STRICKEN from the Courts docket. Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of the Court to enter a separate judgment order. Signed by District Judge Irene M. Keeley on 8/24/12. (Attachments: # <u>1</u> Certified Mail Return Receipt)(jss) (Entered: 08/24/2012)
08/24/2012	<u>44</u>	CLERK'S JUDGMENT in favor of Internal Revenue Service and United States Department Of Treasury and against Nelson Rivas Alvarez. Signed by Clerk of Court on 8/24/12. (Attachments: # <u>1</u> Certified Mail Return Receipt)(jss) (Entered: 08/24/2012)